

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAURIE LEMLEY,

Plaintiff,

v.

CAROLYN W. COLVIN,
Commissioner of Social Security,

Defendant.

No. CV-13-0299-JTR

ORDER DENYING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT, WITHOUT
PREJUDICE

BEFORE THE COURT is Plaintiff's October 21, 2013, pleading which the Court has construed as a motion for summary judgment. ECF No. 11. Plaintiff is proceeding *pro se* and has consented to proceed before a magistrate judge, ECF No. 7.

The Court file indicates the Office of the United States Attorney has not filed a notice of appearance in this case, and no Answer to Plaintiff's Complaint, filed on August 9, 2013, has been filed by Defendant. It appears from a review of the summons, ECF No. 6, that Defendant has not been properly served in this case. *See* Fed. R. Civ. P. 4(i)(1)(A). Accordingly, at this time, Plaintiff's motion for summary judgment, ECF No. 11, is premature. Plaintiff's motion for summary judgment should only be filed after Defendant has been properly served¹ and after the Administrative Record has been lodged in the case.

¹Plaintiff has 120 days from the date of the filing of the Complaint in which to effectuate service. Fed. R. Civ. P. 4(m).

1 Once Defendant has been properly served, Defendant will thereafter file an
2 Answer and lodge the Administrative Record. It can take several weeks for the
3 Administrative Record to be located and filed with the Court. Upon Plaintiff's
4 receipt of the Administrative Record, Plaintiff will be responsible for preparing a
5 proposed stipulated scheduling order and proposed order setting forth the briefing
6 schedule for the case. Plaintiff will determine the briefing dates, allowing
7 Defendant 42 days to respond to Plaintiff's motion for summary judgment unless
8 otherwise requested. With respect to the hearing date for the motions, Plaintiff
9 shall contact the Office of the United States Attorney for the Judge's next available
10 date.

11 Plaintiff's motion for summary judgment, **ECF No. 11**, is **DENIED**
12 **WITHOUT PREJUDICE**, with leave to renew after Defendant is properly served
13 and the Administrative Record has been lodged in this matter.

14 **IT IS SO ORDERED.** The District Court Executive is directed to file this
15 Order and provide a copy to Plaintiff.

16 DATED October 23, 2013.



A handwritten signature in dark ink, appearing to be "M" or "Rodgers", is written over a horizontal line.

JOHN T. RODGERS
UNITED STATES MAGISTRATE JUDGE